



CITY OF NEWTON, MASSACHUSETTS

Department of Planning and Development

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David B. Cohen
Mayor

Public Hearing Date: September 23, 2008
Land Use Action Date: TBD
Board of Aldermen Action Date: December 1, 2008
90-Day Expiration: December 8, 2008

DATE: September 19, 2008

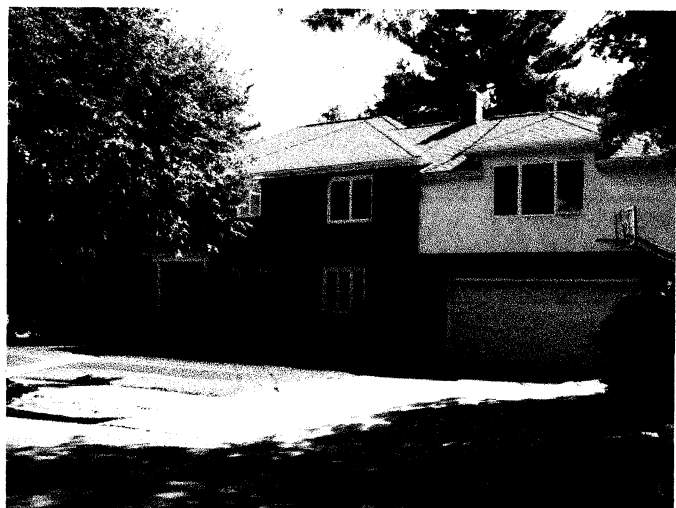
TO: Board of Aldermen

FROM: Michael Kruse, Director of Planning and Development
Candace Havens, Chief Planner
Alexandra Ananth, Planner *AK*

SUBJECT: #277-08 DANIEL & WENDY KRAFT petition for a SPECIAL PERMIT/SITE PLAN APPROVAL and to extend a non-conforming structure to allow floor area ratio (FAR) in excess of .3 for an existing single-family dwelling at 66 MONTROSE STREET, Ward 76, Newton, on land known as Sec 73, Blk 19, Lot 10, containing approximately 10,190 sf of land in a district zoned SINGLE RESIDENCE 2.

CC: Mayor David B. Cohen

The purpose of this memorandum is to provide the Board of Aldermen and the public with technical information and planning analysis which may be useful in the special permit decisionmaking process of the Board of Aldermen. The Planning Department's intention is to provide a balanced view of the issues with the information it has at the time of the public hearing. There may be other information presented at or after the public hearing that the Land Use Committee of the Board of Aldermen will consider in its discussion at a subsequent working session.



Existing house at 66 Montrose St.

EXECUTIVE SUMMARY

The subject property consists of a 10,190 sq.ft. lot improved with a single-family dwelling. The current residence has an FAR of .46 where dimensional controls in Section 30-15 Table 1 currently allows only .3. The petitioners are proposing to demolish and “reconstruct” more than 50% of the existing single-family house (which is why FAR requirements apply in this situation) and, with proposed additions, the renovated structure would further exceed allowable FAR up to .51. The petitioners require a special permit to extend the nonconforming structure to allow FAR in excess of .3 for this single-family dwelling.

During the development review process the Planning Department expressed concerns regarding the proposed expansion of an already nonconforming house on a small lot. The petitioners decided to move forward with their request despite concerns raised regarding “over-building” the lot. However, despite concerns over the size of the proposed renovation, these changes to the façade are considered an upgrade and appear to be in keeping with the character of the surrounding neighborhood.

I. SIGNIFICANT ISSUES FOR CONSIDERATION

In reviewing this petition the Board should consider whether:

- ◆ the proposed expansion of a nonconforming structure would be substantially more detrimental to the neighborhood than the existing nonconforming structure; and
- ◆ the proposed additions to and renovation of the existing single-family residence, further exceeding allowable FAR, is in keeping with the size, scale and design of other structures in the neighborhood.

II. CHARACTERISTICS OF THE SITE AND NEIGHBORHOOD

A. Neighborhood and Zoning

The subject property is located off of Waverly Avenue on a dead end street in the Ward Elementary School neighborhood within a Single Residence 2 (SR2) District. The neighborhood includes many brick Tudor-style residences with most of the lots in the area of approximately 10,000 sq.ft.

B. Site

The lot is approximately 10,190 sq.ft. and is improved with a brick house of approximately 4,000 sq.ft.. The house is abutted by single-family residences to the west, south, and north and by the Ward School Elementary School playing fields on the east. The site is relatively level.

III. PROJECT REVIEW

A. Land Use

The site is used as a single-family residence and the use would not change.

B. Building and Site Design

The existing structure is a two-story brick and stucco single-family residence with attached garage. The existing residence has little architectural character and is not in keeping with most of the Tudor-style residences in the neighborhood. The petitioners are proposing to demolish the existing garage, which would open up the west side of the lot and allow for a new garage and guest room addition while respecting the side-yard setback. The new driveway is proposed to run along the western property line. The petitioners are proposing to fill in a portion of the front façade to create a library and to add an addition to the southeast corner of the house for a family room. The net addition to the building footprint is 413 sq.ft. The proposed new additions to this existing residence would increase the size of the structure from 4,654 sq.ft. to 5,193 sq.ft., where only 3,051 sq.ft. would be allowed by right. *(NOTE: in any Single Residence District, FAR requirements apply to reconstruction where more than 50 percent of an existing structure is demolished, which is the case in this situation.)*

The proposed changes to this existing residence include a complete façade upgrade bringing the house to a more traditional Tudor style, in keeping with other homes in the neighborhood. Proposed materials include brick veneer and stucco, slate roofs, and cedar garage doors. Although the Planning Department expressed concern that the proposed new residence exceeds the FAR, the building conforms to all other dimensional standards including the current building height at 23.6 feet, setbacks, lot coverage, and open space requirements.

C. Landscaping

The petitioners submitted a landscape plan that appears sufficient. The petitioners are proposing seven rhododendrons on City owned property adjacent to their home and between their home and the pedestrian path leading to Ward Elementary School.

IV. COMPREHENSIVE PLAN

The November 2007 *Newton Comprehensive Plan* seeks to guide development to reflect the character held or sought by existing residential neighborhoods, protecting the qualities “of that which exists.” Although the Planning Department believes improvements to the house will be architecturally in keeping with the neighborhood, the Department is concerned that further expanding the already nonconforming structure is not consistent with the size of other residences in the immediately surrounding area. The Planning Department maintains that density and other dimensional controls exist to prevent over-development of land and to ensure there will be no adverse affects on the immediate neighborhood.

V. TECHNICAL REVIEW

A. Technical Considerations –Dimensional Controls

The existing residence is nonconforming as to FAR. The petitioners are proposing to further extend a nonconforming structure to allow FAR in excess of .3.

B. Other Departmental Reviews

The petitioners filed a demolition application with the Newton Historical Commission, as the structure is 50 or more years old and, following their review, it was determined that the building was not “historically significant” and, therefore, would not be deemed preferably preserved.

The Associate City Engineer has reviewed plans and notes a number of issues that will need to be addressed prior to building permit to address drainage concerns (**ATTACHMENT “A”**) including on-site soil and drainage evaluations, verification of proper placement of new drainage system, and assessment of existing city sewer and water systems.

VI. ZONING RELIEF SOUGHT

Based on the completed zoning review, dated July 10, 2008 (**ATTACHMENT “B”**), the petitioners are seeking approval through or relief from:

- Section 30-15, Table 1 to allow for an increase in the maximum FAR for a single family dwelling in an SR-2 district;
- Section 30-21(b) to expand a lawfully nonconforming structure;
- Section 30-23 for approval of Site Plan; and
- Section 30-24(d) for approval of proposed Special Permit.

VII. PETITIONERS’ RESPONSIBILITIES

The petition is considered complete at this time.

ATTACHMENTS:

- ATTACHMENT A:** Memorandum from Associate City Engineer, dated August 28, 2008
ATTACHMENT B: Zoning Review Memorandum, dated July 31, 2008
ATTACHMENT C: Vicinity Map

**CITY OF NEWTON
ENGINEERING DIVISION**

MEMORANDUM

To: Alderman George Mansfield, Land Use Committee Chairman

From: John Daghljan, Associate City Engineer

Re: Special Permit – 66 Montrose Street

Date: August 28, 2008

CC: Lou Taverna, PE City Engineer (via email)
Candice Havens, Chief Planner (via email)
Linda Finucane, Associate City Clerk (via email)
Alexandra Ananth, Planner (via email)

In reference to the above site, I have the following comments for a plan entitled:

*Proposed Conditions Plan
#66 Montrose Street
Newton, MA
Prepared by: Verne T. Porter, Jr., PLS
Dated: June 9, 2008*

Drainage:

1. An on site soil evaluation needs to be performed to obtain the seasonal high groundwater elevation, percolation rate in accordance to Title V. The proposed drainage system shall be within (20') of the test pit. The proposed drainage system should be 2' above the seasonal high groundwater elevation.
2. A drainage analysis needs to be performed based on the City of Newton's 100-year storm event of 7-inches over a 24-hour period. All runoff from impervious areas need to be infiltrated on site, for the respective lots.
3. A hydraulic capacity of the downstream drainage system needs to be evaluated and submitted to the Engineering Division to determine any impact to the municipal drainage system.

4. When a connection to the City's drainage system is proposed, prior to approval of this permit a Closed Circuit Television (CCTV) inspection shall be performed and witnessed by the Engineering Division, the applicant shall retain a contractor that specializes in CCTV inspection. The applicant shall contact the Engineering Division 48 hours in advance to schedule an appointment. At the end of the inspection the video or CD shall be given to the inspector. Furthermore, upon completion of the connection to the drainage system a Post – Construction video inspection shall also take place and witnessed as described above.
5. Various details of the drainage system are needed (i.e. dry wells, drain manhole, pipe material, pipe slope, pipe embedment, etc.).
6. An Operations and Maintenance (O&M) plan for Stormwater Management Facilities needs to be drafted and adopted by applicant, incorporated into the deed; and recorded at the Middlesex Registry of Deeds. A copy of the recording instrument shall be submitted to the Engineering Division.
7. It is imperative to note that the ownership, operation, and maintenance of the proposed drainage system and all appurtenances including but not limited to the drywells, catch basins, and pipes are the sole responsibility of the Homeowners Association.
8. An approved siltation control system is needed.
9. The proposed grades directly in front of the garage and the proposed catch basin are at the same elevation, which is unacceptable. The finish rim grade of the catch basin must be lowered to ensure positive flow.
10. A profile of the proposed drainage system is needed which shows the overflow connection, drain manhole and existing City drain pipe. All slope, rim and invert elevations must be labeled.

Environmental:

1. Are there any existing underground oil tanks that are planned to be removed; if so permits must be obtained from Newton Fire Department.

Water:

- The proposed water service shall be a minimum of 1" diameter Type K copper.

Sanitary Sewer:

1. A detailed profile is needed which shows the existing water main, proposed water service(s), sewer main and proposed sewer service(s) with the slopes and inverts labeled to ensure that there are no conflicts between the sewer services and the water service. The minimum slope for a service is 2.0%, with a maximum of 10%. Pipe material shall be 6" diameter SDR 35 PVC pipe within 10' of the dwelling then 4" pipe per Massachusetts State Plumbing Code. In order to verify the slopes and inverts of the proposed service connection, two manholes of the existing sanitary sewer system need to be identified on the plan with rim & invert elevations. The crown of the service connection & the sewer man need to match.
2. The existing water & sewer services to the building shall be cut and capped at the main and be completely removed from the site and properly back filled. The Engineering Division must inspect this work; failure to having this work inspected my result in the delay of issuance of the Utility Connection Permit.
3. All utility trenches with the right of way shall be backfilled with Control Density Fill (CDF) excavatable Type I-E; detail is available in the City of Newton Construction Standards Detail Book.
4. Due to the fact that Montrose Street was paved less than 5 years ago, the utility trenches and road way will have to be milled 25' on both sides of the utility trenches and curb line to curb line; then paved with 1-1/2" of Type I-1 Bituminous Concrete.

Public Benefit:

1. The applicant should consider replacing the existing sidewalk along the entire frontage with new cement concrete sidewalk and granite curbing.
2. Details of the proposed Pedestrian ramp are needed.

General:


1. All tree removal shall comply with the City's Tree Ordinance.
2. The contractor is responsible for contacting the Engineering Division and scheduling an appointment 48 hours prior to the date when the utilities will be made available for an inspection of water services, sewer service, and drainage system installation. The utility in question shall be fully exposed for the inspector to view; backfilling shall only take place when the City's Inspector has given their approval. *This note should be incorporated onto the plans*
3. The applicant will have to apply for Street Opening, Sidewalk Crossing, and Utilities Connecting permits with the Department of Public Works prior to any construction. *This note must be incorporated onto the site plan.*
4. The applicant will have to apply for a Building Permits with the Department of Inspectional Service prior to any construction.
5. Prior to Occupancy permit being issued, an As-Built Plan shall be submitted to the Engineering Division in both digital format and in hard copy. The plan should show all utilities and final grades, any easements and final grading. *This note must be incorporated onto the site plan.*
6. If a Certificate of Occupancy is requested prior to all site work being completed, the applicant will be required to post a Certified Bank Check in the amount to cover the remaining work. The City Engineer shall determine the value of the uncompleted work. *This note must be incorporated onto the site plan.*

If you have any questions or concerns please feel free to contact me @ 617-796-1023.

Zoning Review Memorandum

Dt: July 31, 2008

To: John Lojek, Commissioner of Inspectional Services

Fr: Eve Tapper, Chief Zoning Code Official
Candace Havens, Chief Planner 

Cc: Michael Kruse, Director, Department of Planning and Development
Stephen Buchbinder, representing Daniel and Wendy Kraft
Ouida Young, Associate City Solicitor

RE: Request to increase FAR in excess of .30

Applicant: Daniel and Wendy Kraft**Site:** 66 Montrose Street**SBL:** Section 73, Block 19, Lot 10**Zoning:** SR-2**Lot Area:** 10,190 sq. ft.**Current use:** single-family residence**Prop. use:** single-family residence**Background:**

The subject property is located in an SR-2 zone and consists of a 10,190 square foot lot currently improved with a single-family residence. The existing FAR on the property is 0.46 in excess of the limit of 0.3 for a dwelling in the SR-2 zoning district per §30-15, Table 1. The applicant claims the existing house is a legally nonconforming structure with respect to the FAR and is requesting to expand the nonconformity.

Administrative determinations:

1. The subject site is comprised of a lot created before December 7, 1953 ("old lot") and is subject to pre-1953 dimensional controls applicable to lots in the SR-2 zone. The following review is based on the materials and plans received to date as referenced under Plans and Materials Reviewed, below.
2. The following table sets forth the applicable dimensional controls for residences located in the SR-2 zone:

SR2 (Old Lot)	Required	Existing	Proposed
Lot Area	10,000 sq. ft.	10,190 sq. ft.	N/C
Frontage	80 ft.	80.55 ft.	N/C
Setbacks			
Front	25 ft.	25.2 ft.	25.2 ft.
Side	7.5 ft.	8.6 ft.	7.6 ft.
Rear	15 ft.	28.7 ft.	17.2 ft.
Total Floor Area Ratio	0.30	0.46	0.51
Building Height	30 ft.	23.7 ft.	23.62 ft.

Max. Number of Stories	2.5	2.5	2.5
Max. building lot coverage	30%	25.34%	29.18%
Min. amount of open space	50%	70.29%	52.80%

3. Section 30-15, Table 1, *Density and Dimensional Controls in Residence Districts and for Residential Use*, outlines the dimensional standards for dwelling units in the SR-2 zone. The subject lot appears to comply with all of the applicable dimensional controls except for FAR. Both the existing dwelling and the proposed plan exceed the allowable FAR. The applicant must apply for a special permit pursuant to §30-15 Table 1, footnote 5, which allows an increased FAR by special permit.
4. The applicant claims that the existing structure is a legally nonconforming structure, although there is no letter from the Commissioner of Inspectional Services confirming this assertion in the submitted materials. If this is in fact the case, then the applicant can apply for a special permit to substantially alter a legally nonconforming structure pursuant to §30-21(b).
5. The following table outlines the Zoning Relief required for the project.

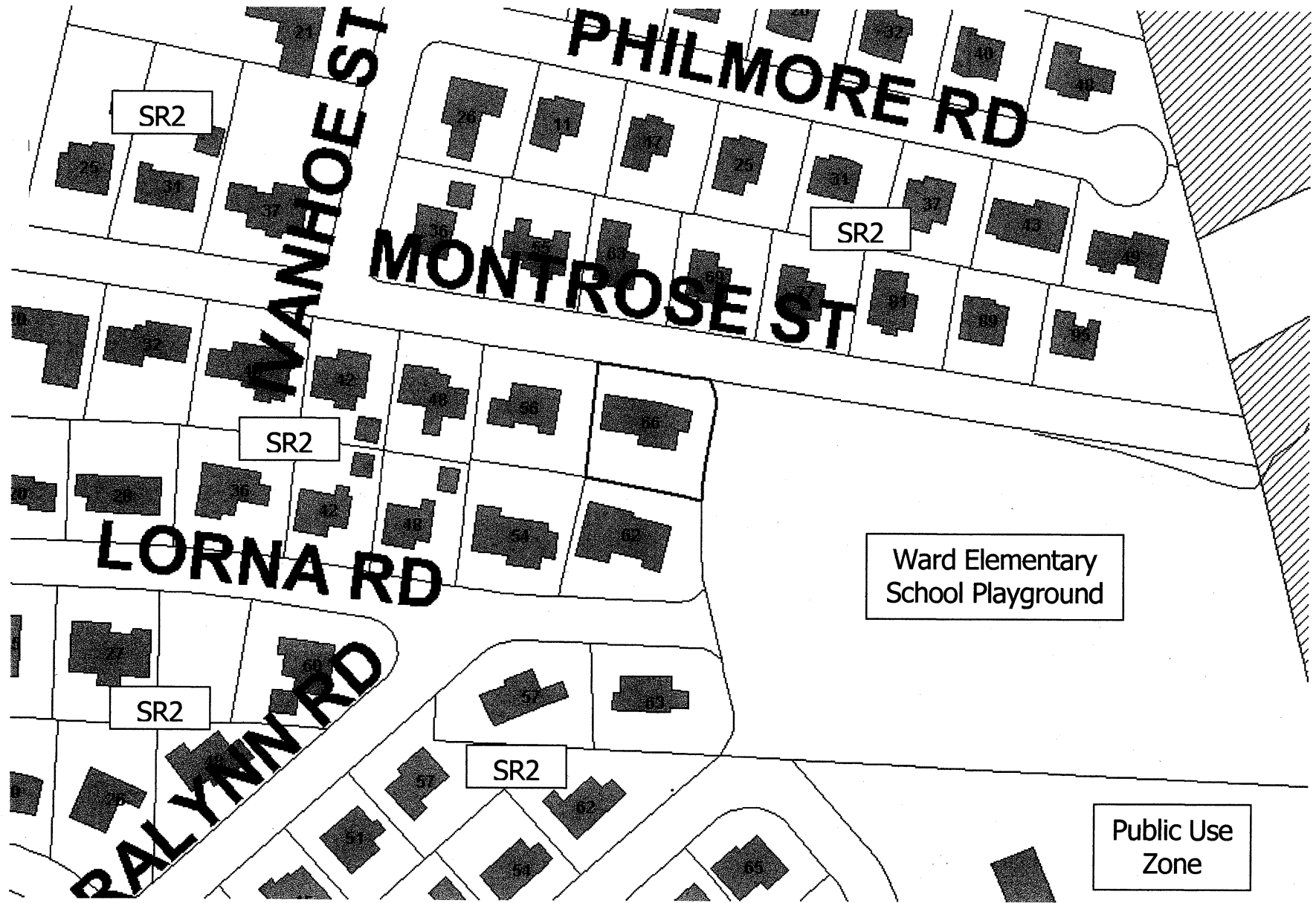
<i>Zoning Relief Summary</i>		
<i>Ordinance</i>		<i>Action Required</i>
	FAR	
30-15, Table 1	Special Permit for an increase in the maximum FAR for a single family dwelling in the SR-2 zone.	X
	Nonconforming structure	
30-21(b)	Special Permit for the expansion of a legally nonconforming structure.	X
	Site	
30-23	Site plan approval	X
	Special Permit	
30-24(d)	Approval of special permit	X

Plans and materials reviewed:

- Letter from Stephen J. Buchbinder to Candace Havens
- Draft Special Permit application
- "Proposed Landscape Plan, Kraft Residence, 66 Montrose Street, Newton, Massachusetts," bearing the stamp and signature of Charles R. Kattman, Registered Landscape Architect and dated June 19, 2008
- City of Newton Building Permit dated January 5, 1949 and application for the building permit
- Copy of the deed recorded in Middlesex South District Registry of Deeds, Book 6812, Page 199 and plan recorded with said Deeds as Plan No. 522 of 1944
- "Area Plan, 66 Montrose Street, Newton, Massachusetts," bearing the stamp and signature of Verne T. Porter Jr., PLS, dated June 9, 2008
- "Proposed Conditions Plan, 66 Montrose Street, Newton, Massachusetts," bearing the stamp and signature of Verne T. Porter Jr., PLS, dated June 9, 2008
- "Existing Conditions Plan, 66 Montrose Street, Newton, Massachusetts," bearing the stamp and signature of Verne T. Porter Jr., PLS, dated June 9, 2008

Plans for the Kraft Residence, Newton, Massachusetts bearing the stamp and signature of Thomas Lybrook, Registered Architect and dated 6/25/08

- Sheet A0.1 Cover Sheet/Proposed Additions
- Sheet A1.0 Proposed North & West Elevations
- Sheet A1.1 Proposed South & East Elevations
- Sheet A2.0 Proposed Basement Floor Plan
- Sheet A2.1 Proposed First Floor Plan
- Sheet A2.2 Proposed Second Floor Plan
- Sheet A2.3 Proposed Attic Plan
- Sheet A2.4 Proposed Roof Plan
- Sheet Ex 1.0 Existing North & West Elevations
- Sheet Ex 1.1 Existing South & East Elevations
- Sheet Ex 2.0 Existing First Floor Plan
- Sheet Ex 2.1 Existing Second Floor Plan



VICINTY MAP